

By the National Credit Union
Administration Board on January 8, 2004.

Becky Baker,

Secretary of the Board.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 52-009]

System Energy Resources, Inc; Notice of Hearing and Opportunity To Petition for Leave To Intervene Early Site Permit for the Grand Gulf ESP Site

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10 of the Code of Federal Regulations, Part 50, Domestic Licensing of Production and Utilization Facilities, Part 52, Early Site Permits, Standard Design Certifications, and Combined Licenses for Nuclear Power Plants, and Part 2, Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders, notice is hereby given that a hearing will be held, at a time and place to be set in the future by the United States Nuclear Regulatory Commission (NRC, the Commission) or designated Atomic Safety and Licensing Board (Board). The hearing will consider the application dated October 16, 2003, filed by System Energy Resources, Inc. (SERI), a subsidiary of Entergy Corporation, pursuant to Subpart A of 10 CFR Part 52 for an early site permit (ESP). The application requests approval of a site for which it has 90 percentage ownership in Claiborne County, Mississippi, approximately 25 miles south of Vicksburg, Mississippi, 6 miles northwest of Port Gibson, Mississippi, and 37 miles north-northeast of Natchez, Mississippi, as a location for one or more new nuclear reactors that would, if authorized for construction and operation in a separate licensing proceeding under Subpart C of 10 CFR Part 52 or under 10 CFR Part 50, have a capacity of no more than 8600 Megawatts (thermal) additional for the site. SERI has the exclusive rights to develop the Grand Gulf site property outside the existing power plant and support facilities. South Mississippi Electric Power Association maintains a 10 percentage ownership interest in the property associated with the existing Grand Gulf Nuclear Station power plant and support facilities. The docket number established for this application is 52-009.

The hearing will be conducted by a Board which will be designated by the

Chairman of the Atomic Safety and Licensing Board Panel or by the Commission. Notice as to the membership of the Board will be published in the **Federal Register** at a later date.

The NRC staff will complete a detailed technical review of the application and will document its findings in a safety evaluation report (SER) and an environmental impact statement (EIS). In addition, the Commission will refer a copy of the application to the Advisory Committee on Reactor Safeguards (ACRS) in accordance with 10 CFR 52.23, and the ACRS will report on those portions of the application that concern safety. Upon receipt of the ACRS report and completion of the Nuclear Regulatory Commission (NRC) staff's SER and EIS, the Director, Office of Nuclear Reactor Regulation, NRC, will propose findings on the following issues:

Issues Pursuant to the Atomic Energy Act of 1954, as Amended

(1) Whether the issuance of an ESP will be inimical to the common defense and security or to the health and safety of the public (Safety Issue 1); and, (2) whether, taking into consideration the site criteria contained in 10 CFR Part 100, a reactor, or reactors, having characteristics that fall within the parameters for the site, can be constructed and operated without undue risk to the health and safety of the public (Safety Issue 2).

Issue Pursuant to the National Environmental Policy Act (NEPA) of 1969, as Amended

Whether, in accordance with the requirements of Subpart A of 10 CFR Part 51, the ESP should be issued as proposed.

The Board will conduct the hearing in accordance with Subpart G of 10 CFR Part 2. If the hearing is contested as defined by 10 CFR 2.4, the presiding officer will consider Safety Issues 1 and 2 and the issue pursuant to NEPA set forth above.

If the hearing is not a contested proceeding as defined by 10 CFR 2.4, the presiding officer will determine: whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's staff has been adequate to support a negative finding on Safety Issue 1 above, and an affirmative finding on Safety Issue 2 above, as proposed to be made by the Director, Office of Nuclear Reactor Regulation; and whether the review conducted by the Commission pursuant to NEPA has been adequate.

Regardless of whether the proceeding is contested or uncontested, the presiding officer will: (1) Determine whether the requirements of Section 102(2) (A), (C), and (E) of NEPA and Subpart A of 10 CFR Part 51 have been complied with in the proceeding; (2) independently consider the final balance among the conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; and (3) determine, after considering reasonable alternatives, whether the ESP should be issued, denied, or appropriately conditioned to protect environmental values.

In accordance with 10 CFR 2.714, any person whose interest may be affected by this proceeding and who desires to participate as a party shall file a written petition for leave to intervene. Petitions must set forth with particularity the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, including the reasons why the petitioner should be permitted to intervene with particular reference to the factors set forth in 10 CFR 2.714(d)(1), and the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene.

The Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on petitions to intervene shall, in ruling on petitions to intervene, consider the following factors, among other things: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding, (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding, and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest.

All such petitions must be filed no later than 30 days from the date of publication of this notice in the **Federal Register**. Nontimely filings will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition, that the petition should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v).

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held at such times as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.751a. Notice of this special prehearing conference will be published in the **Federal Register**. The Board will

convene a prehearing conference of the parties, or their counsel, to be held subsequent to any special prehearing conference, after discovery has been completed, or within such other time as may be appropriate, at a time and place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.752.

Not later than fifteen (15) days prior to the holding of the special prehearing conference pursuant to § 2.751a, or if no special prehearing conference is held, fifteen (15) days prior to the holding of the first prehearing conference, the petitioner shall file a supplement to his or her petition to intervene that must include a list of the contentions which petitioner seeks to have litigated in the hearing. A petitioner who fails to file a supplement that satisfies the requirements of 10 CFR 2.714(b)(2) with respect to at least one contention will not be permitted to participate as a party. Additional time for filing the supplement may be granted based upon a balancing of the factors in 10 CFR 2.714(a)(1).

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide the following information with respect to each contention: (1) A brief explanation of the bases of the contention, (2) a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing, together with references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion, and (3) sufficient information (which may include information pursuant to 10 CFR 2.714(b)(2)(i) and (ii)) to show that a genuine dispute exists with the applicant on a material issue of law or fact. This showing must include references to the specific portions of the application (including the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. On issues arising under NEPA, the petitioner shall file contentions based on the applicant's environmental report. The petitioner can amend those contentions or file new contentions if there are data or conclusions in the NRC draft or final EIS, or any supplements relating thereto, that differ significantly

from the data or conclusions in the applicant's document.

The Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on petitions to intervene shall, in ruling on the admissibility of a contention, refuse to admit a contention if: (1) The contention and supporting material fail to satisfy the requirements of 10 CFR 2.714(b)(2); or (2) the contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief.

A person permitted to intervene becomes a party to the proceeding, subject to any limitations imposed pursuant to 10 CFR 2.714(f). Unless otherwise expressly provided in the order allowing intervention, the granting of a petition for leave to intervene does not change or enlarge the issues specified in the notice of hearing.

Petitions for leave to intervene may be filed by delivery to the NRC Public Document Room at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852-2738, or by mail addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; Attention: Rulemakings and Adjudication Staff. Because of the continuing disruptions in delivery of mail to United States Government offices, it is also requested that petitions for leave to intervene be transmitted to the Secretary of the Commission either by facsimile transmission to 301-415-1101 or by e-mail to hearindocket@nrc.gov. A copy of the petition should also be sent to the Assistant General Counsel for Reactor Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Joseph L. Blount, Entergy Nuclear, 1340 Echelon Parkway, Jackson, Mississippi, 39213, and to Mark J. Wetterhahn, Esquire, Winston & Strawn LLP, 1400 L Street, NW., Washington, DC 20005-3502. All petitions must be accompanied by proof of service upon all parties to the proceeding or their attorneys of record.

A person who is not a party may, in the discretion of the presiding officer, be permitted to make a limited appearance by making an oral or written statement of his position on the issues at any session of the hearing or any prehearing conference within such limits and on such conditions as may be fixed by the presiding officer, but may not otherwise participate in the proceeding.

A copy of the SERI ESP application is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available

records are accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. The accession number for the application is ML032960315. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room staff by telephone at 1-800-397-4209, 301-415-4737 or by e-mail to pdr@nrc.gov.

The application is also available to local residents at the Harriette Person Memorial Library in Port Gibson, Mississippi, and is available on the NRC Web page at <http://www.nrc.gov/reactors/new-licensing/license-reviews/esp.html>.

Dated at Rockville, Maryland this 7th day of January, 2004.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27793; File No. 3-11373]

Public Utility Holding Company Act of 1935; Application of Stephen Forbes Cooper, LLC, PGE Trust, and Enron Corporation for Exemption Under the Public Utility Holding Company Act of 1935 (No. 70-10190); Notice of and Order Scheduling Hearing Regarding Request for Order Exempting Holding Companies from Registration Under the Public Utility Holding Company Act of 1935

January 14, 2004.

Enron Corporation ("Enron"), a public utility holding company, Stephen Forbes Cooper, LLC ("SFC"), an entity headed by the Acting President of Enron, and PGE Trust, an entity that Enron may organize (collectively "Applicants"), all located at 1400 Smith Street, Houston, Texas 77002, have filed an application ("Application") with the Securities and Exchange Commission seeking exemption from all provisions of the Public Utility Holding Company Act of 1935 ("Act") except section 9(a)(2). Enron represents that it is a public utility holding company by reason of its ownership of all of the outstanding voting securities of Portland General Electric Company ("Portland General"). Enron requests exemption